

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

D. VINCENT CAMASTRO,

Plaintiff,

v.

Civil Action No. 5:12CV157

SCOTT R. SMITH, et al.,

Defendants.

REPORT AND RECOMMENDATION

On October 18, 2012, Plaintiff filed a complaint in this Court, alleging a conspiracy between local judges, prosecutors, police, and lawyers aimed at depriving him of access to the Courts and violating his civil rights. The same day, the Clerk sent Plaintiff a Notice of Deficient Pleading advising him to either file an application to proceed *in forma pauperis* or pay a \$350 filing fee within 21 days. The undersigned recommended that the complaint be dismissed as to everyone but Defendant Corporal J.E. Dean, and, on August, 19, 2013, Senior Judge Frederick P. Stamp, Jr. issued an Order¹ affirming the undersigned's recommendation and directing the Clerk to issue a summons for defendant Dean. However, the Marshal Service was unable to serve the summons on defendant Dean because Plaintiff had not yet paid the filing fee nor had he filed an application to proceed *in forma pauperis*. On August 26, 2013, this Court sent Plaintiff an Order to Correct Deficient Pleading² requiring him to either pay the filing fee or submit an application to proceed *in forma pauperis* within fourteen days.

Because the Court received no filings from Plaintiffs in response to the August 26 Order, this Court issued an Order to Show Cause³ on September 11, 2013, directing Plaintiff to show cause as to why his complaint should not be dismissed for failure to prosecute. On September 19, 2013, Plaintiff sent a letter⁴ to the undersigned asking that the case be dismissed because he did not file the complaint. Plaintiff states in the

¹Dkt. No. 9.

²Dkt. No. 12.

³Dkt. No. 14.

⁴Dkt. No. 17.

letter that “Greg Givens and his mother Carol Pizzuto⁵ filed this lawsuit without my knowledge.” Plaintiff further states that he was told “not to worry because if the filing fee was not paid then the case would automatically be dismissed.” Accordingly, the undersigned **RECOMMENDS** that this action be **DISMISSED**.

Any party may, within fourteen (14) days of receipt of this recommendation, file with the Clerk of the Court written objections identifying the portions of the recommendation objected to, and the basis for those objections. A copy of the objections should also be submitted to the District Judge of record. Failure to timely object to the recommendation will result in a waiver of the right to appeal.

The Clerk of the Court is directed to send a copy of this report to the *pro se* plaintiff by certified mail, return receipt requested, and all other counsel of record as applicable.

IT IS SO ORDERED

DATED: September 20, 2013

/s/ James E. Seibert

JAMES E. SEIBERT

UNITED STATES MAGISTRATE JUDGE

⁵As the undersigned noted in footnote 1 of the February 5 Report and Recommendation, there are striking similarities between this case and several others filed by members of the Givens and Pizzuto family. The undersigned has recently recommended that all those complaints be dismissed for failure to state a claim. *See* Civ. Act. Nos. 512cv145, 512cv149, and 512cv155.